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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

_____)	<u>ORAL ARGUMENT REQUESTED</u>
ROGELIO CALINGO, et al.,)	
)	Case No.: 11 CIV 0628 (JFM)
Plaintiffs,)	
)	
v.)	PLAINTIFFS' NOTICE OF MOTION
)	TO REMAND TO STATE COURT
MERIDIAN RESOURCE COMPANY)	<u>PURSUANT TO 28 U.S.C. § 1447(c)</u>
LLC, et al.,)	
)	
Defendants.)	
_____)	

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of this Motion, the previously filed Notice of Removal, and all other papers heretofore filed and served in connection with this action, Plaintiffs Rogelio Calingo and Georgiana Calingo, on their own behalf and on behalf of all class members similarly situated, will move this Court before the Honorable J. Frederick Motz, United States District Judge, for an Order, pursuant to 28 U.S.C. §1447(c), remanding this action from the United States District Court for the Southern District of New York to the Supreme Court of the State of New York, County of Rockland, from which it was removed on or about January 28, 2011 pursuant to Defendants' Notice of Removal on the following grounds:

- (1) This is not a proper case for resolution by the federal courts under the Class Action Fairness Act, 28 U.S.C. § 1332(d), as alleged by Defendants, because 28 U.S.C. § 1332(d)(4)(A) requires the district court to decline jurisdiction (i) over a class action in which – (I) greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed; (II) at least 1 defendant is a defendant – (aa) from whom significant relief is sought by members of the plaintiff class; (bb) whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class; and (cc) who is a citizen of the State in which the action was originally filed; and (III) principal injuries resulting from the alleged conduct or any related conduct of each defendant were incurred in the State in which the action was originally filed; and (ii) during the 3-year period preceding the filing of that class action, no other class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons.
- (2) This is not a proper case for resolution by the federal courts under 28 U.S.C. § 1441, as alleged by Defendants, because Plaintiffs' claims do not raise any federal question under 28 U.S.C. § 1331; and
- (3) This is not a proper case for resolution by the federal courts under 28 U.S.C. § 1442(A)(1), as alleged by Defendants, because Defendants were not acting under the direction of a federal agency or its officers when engaging in the actions challenged in the Complaint; and

for such other and further relief as to the Court may seem just and proper.

Dated: New York, New York
April 25, 2011

Respectfully submitted,
OXMAN TULIS KIRKPATRICK WHYATT
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